

In the United States Court of Federal Claims

NOT FOR PUBLICATION
No. 05-769C
(Filed September 19, 2005)

ROBERT CURTIS,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

The Court hereby dismisses the present action, *sua sponte*, for lack of subject matter jurisdiction. Pursuant to Rule 12(b)(1) of the Court of Federal Claims (“RCFC”), subject matter jurisdiction can be challenged by the parties at any time, or by the court itself. *Folden v. United States*, 379 F.3d 1344, 1354 (Fed. Cir. 2004). When questioning whether subject matter jurisdiction exists, “the allegations stated in the complaint are taken as true and jurisdiction is decided on the face of the pleadings.” *Shearin v. United States*, 992 F.2d 1195, 1195-96 (Fed. Cir. 1993).

Assuming, for the purpose of this analysis, that Plaintiff’s allegations are true, he fails to state a claim falling within this Court’s jurisdiction. The Tucker Act describes this Court’s jurisdiction as follows: “[t]he United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the *United States* founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases *not sounding in tort*.” 28 U.S.C. § 1491(a)(1) (emphases added). “The Tucker Act does not grant this Court jurisdiction over tortious claims, nor does it permit this Court to hear claims between private parties.” *Ambase Corp. v. United States*, 61 Fed. Cl. 794, 796 (Fed. Cl. 2004). By his own admission,¹ the Plaintiff attempts to sue the individuals listed as defendants in their

¹See Pl. Reply to Consolidation at ¶¶ 5-6 (Sept. 6, 2005) (stating that it was the “individuals committing Fraud! – Far, far beyond any Federal Immunity – and should be represented by their personal attorneys – not a U.S. Attorney! * * * Therefore they are

individual capacities, not in their official capacities. Thus there is no claim against the United States that could trigger this Court's jurisdiction under the Tucker Act.

The Plaintiff alleges a number of injuries arising from lies, deceit, slander, and threatening behavior; each of these causes of action are tort claims. Even if the Plaintiff listed the United States as a defendant, this Court does not have jurisdiction over claims sounding in tort. 28 U.S.C. § 1491(a)(1); *Brown v. United States*, 105 F.3d 621, 623 (Fed. Cir. 1997); *Ambase*, 61 Fed. Cl. at 796.

The Plaintiff's case is **DISMISSED** for lack of subject matter jurisdiction and the clerk is ordered to close the case. Defendant's motion to consolidate and motion for enlargement of time are **DENIED** as moot. Plaintiff's request for *in forma pauperis* status is **GRANTED**, and the filing fee for this complaint is waived.

IT IS SO ORDERED.

VICTOR J. WOLSKI
Judge

individuals – not – Federal Employees with Immunity.” (emphasis altered for readability)).